

REMARKS

Claims 1-6 and 9-14 are currently being prosecuted. Independent claims 1 and 6 are amended, and dependent claims 13 and 14 are added. Claims 7 and 8 were previously cancelled. The Examiner is respectfully requested to reconsider his rejections in view of the Amendments and Remarks as set forth hereinbelow.

Examiner Interview

The Applicants wish to thank the Examiner for the courtesies extended to Applicants' representative, James M. Slattery, Registration No. 28,380, during the interview conducted in April 2005. During the interview, the proposed changes to the claims were discussed in an attempt to place the claims in compliance with 35 U.S.C. § 112, first paragraph, and to overcome the prior art rejections of record. The claims have been amended in the manner discussed during the interview, and are believed to place the application into condition for allowance. Accordingly, reconsideration and allowance of the present application are respectfully requested.

Rejection Under 35 U.S.C. §112, first paragraph

Claims 1 and 6 stand rejected under 35 U.S.C. § 112, second paragraph, as failing to comply with the enablement requirement. This rejection is respectfully traversed.

In order to overcome this rejection, Applicants have amended claims 1 and 6 to recite, inter alia, "a microphone for detecting said noise of which sound pressure level is high....". Support for this amendment can be seen on page 31, lines 14-19 of the specification. Further, page 30, lines 4 and 5 of the specification states "Output signals from the microphones 46A, 46B are used as error signals".

The Applicants respectfully submit that claims 1 and 6, as amended, are fully supported by and adequately described in the written description of the invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. §103(a)

Claims 1-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakao et al. (U.S. 5,651,072) in view of Flaherty (U.S. 5,734,727);

Claims 6, 9, 10, and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakao et al. in view of Flaherty et al. and Mason et al. (U.S.5,410,607); and

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakao et al. as modified by Flaherty et al. as applied to claim 1 above, and further in view of Mason et al.

These rejections are respectfully traversed.

Amendments to Independent Claims 1 and 6

While not conceding the appropriateness of the examiner's rejection, but merely to advance the prosecution of the present application, each of independent claims 1 and 6 has been amended to include a combination of elements including, *inter alia*,

a passenger compartment of a vehicle with a fixed roof; and a microphone disposed in the passenger compartment of the vehicle with the fixed roof, the position being centrally located in the width direction of the fixed roof of the vehicle.

The present invention sets forth a combination of elements including a microphone disposed in the passenger compartment of the vehicle with the fixed roof, the position being centrally located in the width direction of the fixed roof of the vehicle. As illustrated in Fig. 18 and as discussed on page 29, line 10 and continuing to page 31, line 3 of the present application, it is intended that high sound pressure levels of noise are detected. Further as discussed on page 11, lines 26-27 of the specification, the output signals of the microphone are used as a reference signals (error signals). Accordingly, the active noise control system can attenuate noise in the passenger compartment at the ears on the compartment side of the occupants where the sound pressure of the noise is relatively high.

The microphone is disposed centrally in the width direction of the vehicle having a fixed roof for positioning the microphone the farthest from the side windows of the vehicle. Thus, the influence of external noises, the sound pressure level detected by the microphone, from the side windows such as wind roars will be as small as possible. As a result, the noise

whose sound level is high in the passenger compartment can be detected to a relatively large extent. With the present invention, based on the detected signals of the microphone disposed in a passenger compartment of a vehicle having a fixed roof, the noises whose sound level is high in the passenger compartment can be attenuated or reduced effectively.

By contrast, as acknowledged by the Examiner on page 4 of his rejection, "Nakao does not clearly teach a microphone disposed centrally in the width direction of the vehicle".

Regarding the Flaherty et al. document, this document merely discloses a vehicle with a sunroof and microphones 51 and 53 mounted adjacent to sunroof tub 41 and immediately adjacent to the sunroof opening so as to sense the wind buffeting-caused vibrations at the sunroof opening. Therefore, the Flaherty et al. device cannot achieve the effect of the present invention, i.e., to prevent the microphone from being subject to an airflow. Thus, since the Flaherty et al. document teaches a device directed to a totally different problem from that faced by the present inventors, it is not proper to combine Flaherty et al. with Nakao et al. to reject the claims of the present invention.

Regarding the Mason et al. document, this document is merely cited to teach noise ranges of a noise control system. Therefore, Mason et al. cannot make up for the deficiencies of Nakao et al. and Flaherty et al.

Accordingly, the structure and effects of the claimed inventions according to independent claims 1 and 6, which are directed to a combination of elements including a passenger compartment of a vehicle with a fixed roof; and a microphone disposed in the

passenger compartment and centrally located in the width direction of the fixed roof of the vehicle, is not shown or suggested by the cited references, whether considered separately or in combination.

Added Dependent Claims 13 and 14

The examiner will note that dependent claims 13 and 14 have been added to set forth additional novel features of the present invention.

All dependent claims are in condition for allowance based on their dependence on allowable independent claims, or due to the additional novel features set forth therein.

Therefore, all claims of the present application are in condition for allowance.

No Prosecution History Estoppel

Claims 1 and 6 have been amended to clarify the claimed subject matter. No prosecution history estoppel would apply to the interpretation of the limitations set forth in claims 1-6 and 9-14 in view of the fact that this subject matter has been continuously presented since the original filing date of the present application.

CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

In view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

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Art Unit: 2543
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All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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